

Appl. No. 10/083,366
Amendment dated: February 4, 2004
Reply to OA of: September 5, 2003

REMARKS

Applicants have amended the claims to more particularly define the invention taking into consideration the outstanding Official Action. Claims 1-24 have been canceled and claims 25-39 have been added to the application. Claims 25-39 basically parallel canceled claims 11-24 and are fully supported by Applicants' specification and claims as originally filed.

The Examiner is correct in noting that only method claims remain in the application, all products claims having been canceled subject to the right to file a divisional application directed thereto.

Applicants have carefully considered the objection to claim 19 and confirm that the Examiner's guess is correct in that claim 19 was to be dependent upon claim 12. However, in rewriting canceled claim 19, the claim now has proper dependency and therefore this objection should be withdrawn.

Applicants have carefully considered the rejection of claims 11-24 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicants note the comments with respect to the process steps (b) and (c). In new claim 25, which corresponds to canceled claim 11, these steps are more clearly recited to avoid any inconsistent language. In this regard, Applicants note that the level of one of ordinary skill in the art to which the invention pertains must be taken into consideration in evaluating the terms now used in the claims.

Moreover, the use of "precise" and "engineering" as objected to in the Official Action are no longer used in an inappropriate fashion in the amended claims. Also, careful consideration has been given to providing adequate antecedent basis in the claims. Accordingly, it is most respectfully requested that the rejection under 35 U.S.C. 112 be withdrawn in view of the amendments to the claims.

As noted, Applicants believe that the claims now present in the application are in full compliance with 35 U.S.C. 112. However, should the Examiner see any additional amendments which may be necessary for further clarification, the Examiner is invited to contact the undersigned attorney to discuss what, if any, further amendments are

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necessary to place the claims in proper form since it is believed that the claims as now amended, clearly distinguish over the prior art.

The rejection of claims 11, 12, 14-17 and 19 under 35 U.S.C. 102(e) as anticipated by or in the alternative under 35 U.S.C. 103(a) as obvious over Burroughes et al. has been carefully considered but is most respectfully traversed in view of the amendments to the claims.

In the Official Action it is urged that in the claims, it is uncertain whether the microwave plasma is used before application of the conductive polymer solution, just during or after, or at some combination of all these time periods as discussed above in section 3. Hence, the rejection is applied as a 102/103 due to this uncertainty in claim temporal usage of the microwave plasma.

In this regard, Applicants have clarified the claims to more specifically define the sequence of steps as clearly set forth in Applicants' specification as would be appreciated by one of ordinary skill in the art. The substrate is first subjected to a microwave plasma field treatment to facilitate the conductive polymer monomer, dimer, oligomer or polymer being positionally absorbed on the substrate. Thus, at least prior to application of the homogeneously coating step (b), the substrate has been subject to a microwave plasma field treatment.

Applicants wish to direct the Examiner's attention to MPEP § 2131 which states that to anticipate a claim, the reference must teach every element of the claim.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Akzo N.V. v. International Trade Comm'n, 808 F.2d 1471, 1 USPQ2d 1241 (Fed. Cir. 1986) (Claims to a process for

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making aramid fibers using a 98% solution of sulfuric acid were not anticipated by a reference which disclosed using sulfuric acid solution but which did not disclose using a 98% concentrated sulfuric acid solution.).

In the claims as now amended, there is no anticipation and therefore this rejection should be withdrawn.

Applicants also wish to direct the Examiner's attention to the basic requirements of a prima facie case of obviousness as set forth in the MPEP § 2143. This section states that to establish a prima facie case of obviousness, three basic criteria first must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Section 2143.03 states that all claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Applicants also most respectfully direct the Examiner's attention to MPEP § 2144.08 (page 2100-114) wherein it is stated that Office personnel should consider all rebuttal argument and evidence presented by applicant and the citation of In re Soni for error in not considering evidence presented in the specification.

In Burroughes et al., reference is made to the abstract; Figures 5-6, 9-10 and 12. Column 3, line 21, column 4, line 31 has been specifically cited as has been column 5,

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lines 22-45 for formation of transport and/or emissive layers via self-assembly. However, these teachings neither anticipate nor render obvious the presently claimed invention as required by the specific manipulation steps of the method presently claimed.

Applicants wish to note the comparative examples contained in the present specification which need to be considered in evaluating the importance of the specific steps involved in the treatment and the results achieved. In this regard, please specifically compare example 5 which contains the multiple step processing and the electrical conductivity obtained by this process as compared to the minimal electrical conductivity for examples 2, 3 and 4 set forth in Applicants' specification. Clearly, the manipulation steps of the present invention clearly establish the patentability of the claimed subject matter.

The rejection of claims 13, 18 and 20-24 under 35 U.S.C. 103 as being unpatentable over Burroughes et al. has been carefully considered but is also most respectfully traversed in view of the above comments.

It is recognized in the Official Action that Burroughes et al. do not teach the specific substitution ligands for aniline of Applicants' claims 18, and 20-24, they teach polyaniline generally and include doped, partially doped and undoped species hence it would have been obvious to one of ordinary skill in the art to employ any known polymer derivative of the basic polyaniline compound, especially as these claims substitutions can be considered to provide a form of doping which is taught. However, there is no specific motivation which would lead one of ordinary skill in the art to make the necessary substitution as suggested in the Official Action. This is clearly hindsight reconstruction which is impermissible and does not establish a prima facie case of obviousness. In re Fritch, 23 USPQ 1780, 1784(Fed Cir. 1992) ("It is impermissible to engage in hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps.). Moreover, the deficiency in the reference and failing to teach the manipulative steps as discussed above is also noted and clearly, the presently claimed invention is unobvious

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from the teachings of this reference. Accordingly, it is most respectfully requested that this rejection be withdrawn.

In view of the above comments and further amendments to the claims, favorable reconsideration and allowance of all the claims now present in the application are most respectfully requested.

Respectfully submitted,

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